



WISCONSIN REGULATORY DIGEST

A Publication of the FUNERAL DIRECTORS EXAMINING BOARD

Volume 7, No. ■

September, 1997

BOARD FOCUSES ON RULE CHANGES

BURIAL AGREEMENTS FUNDED BY LIFE INSURANCE PROCEEDS

When new laws were created, relating to the sale or solicitation of burial agreements funded with the proceeds of a life insurance policy, the Funeral Directors Examining Board was given the authority to promulgate administrative rules to clarify details in the law. The rules will become effective on November 1, 1997.

The rules require a licensed funeral director or an operator of a funeral establishment to submit an application to the board for registering every agent who sells or solicits the sale of a burial agreement funded with the proceeds of a life insurance policy. Under the rule, the application must include: (1) The agent's Wisconsin life insurance intermediary's license number, the license expiration date, and the

insurer or insurers whom the agent is listed to represent; (2) Evidence that the agent has successfully completed at least 20 hours of approved education, except that an agent who is a Wisconsin-licensed funeral director and a Wisconsin-licensed insurance intermediary will be exempt from completing the education; and (3) A copy of each contract between an agent and an operator of a funeral establishment, plus a \$39 application fee.

The rules spell out the contents of the education program and the criteria and procedures for obtaining approval as a program provider. An agent is required to pass a comprehensive examination at the end of the program.

The rules list 11 standards for burial agreements funded by life insurance proceeds. They also specify standards which pertain to the contract between agents and operators of funeral establishments. The rules contain requirements relating to the provision of a written notice to the Board and a consumer when the consumer terminates a burial trust and converts it to a burial agreement funded by the proceeds of a life insurance policy.

The rules contain a final section which was the subject of considerable discussion and debate. That (Continued on p. 2)

THE WISCONSIN FUNERAL DIRECTORS EXAMINING BOARD

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section pertains to the solicitation of prospective purchasers of burial agreements by telephone, by live-voice, by the use of an automatic telephone dialing system or by an artificial prerecorded voice. The Board anticipates approving several educational program providers before the effective date of the new rules. Several parties have indicated an interest in obtaining such approval. Application forms and forms for providing notice to the Board have been prepared and may be obtained from staff in the Department. If you would like a copy of the final rule when it becomes available, please send a request, along with a stamped self-addressed envelope to:

Preneed Rules
Funeral Directors Examining Board
P.O. Box 8935
Madison, WI 53708

INS 23

If you will be involved in offering pre-need burial agreements that will be funded by insurance, you should also be aware of the administrative rules promulgated by the Office of the Insurance Commissioner, Chapter INS 23, Wis Adm Code, **STANDARDS FOR INSURANCE MARKETING TO FUND PREARRANGED FUNERAL PLANS**. The chapter appears in the Register dated July 1997 and becomes effective October 1, 1997. The stated purposes of the rules are to establish minimum standards for benefits, claims payments, marketing practices, compensation arrangements and reporting practices for funeral policies. If you would like a copy of **INS 23** or have questions on this rule, please contact the Office of the Commissioner of Insurance, 121 E. Wilson Street, PO Box 7873, Madison, WI. 53707-7873, (608)266-3583.

ADMINISTRATIVE CODE UPDATE

The following changes were to the Administrative Code, Chapter FD 2:

1. **FD 2.04 Discrimination.** No funeral director licensed in Wisconsin, or apprentice funeral director holding a certificate of apprenticeship in this state, or person holding a funeral establishment permit herein, shall deny services or the use of an establishment to any person because of race, color, creed, national origin or ancestry, HIV infection, or sexual orientation; provided, however, that this section shall not apply where a funeral establishment is, for religious reasons, so operated that its services are provided to members of only one religious faith. Effective 7-1-96.

2. **FD 2.10 Sanitation. (1)** All preparation rooms, equipment, instruments and supplies in funeral establishments shall be maintained in a clean and sanitary condition. **(2)** All post-mortem procedures shall be performed and all preparation rooms, equipment, instruments and supplies in funeral establishments shall be maintained in compliance with the terms and conditions set forth in the occupational safety and health administration requirements for occupational exposure to blood borne pathogens. In cases of HIV infection, after the body has been prepared in accordance with s. HSS 316.04, the usual and customary procedures may be followed for restoration and cosmetology. Following embalming and body preparation, no special precautions need to be observed during visitation. Effective 7-1-96.
3. **FD 2.13 Confidentiality.** All personnel involved in the post-mortem case of the deceased shall be informed of the confidentiality provisions under s. 252.15(5), Stats., and the consequences of violating these confidentiality provisions. Effective 7-1-96

HFS 136 - EMBALMING STANDARDS

Several changes were suggested by the Board and made to the following sections of the administrative code of the Dept. of Health and Family Services.

HFS 136.03 License or certificate required. (1) No person may embalm a dead human body unless the person holds a funeral director's license, pursuant to ss. 445.05 to 445.06, Stats., or an apprentice funeral director's certificate pursuant to s. 445.095, Stats.

(2) Embalming may only be performed in:

- (a) Funeral establishments holding a current establishment permit issued by the funeral directors examining board;
- (b) Hospitals;
- (c) Facilities approved by a local medical examiner or coroner if a disaster occurs; or
- (d) Private homes as provided in ch. HSS 135.

NOTE: See section HFS 135.05 for additional restrictions on preparation of dead human bodies.

HFS 136.04 Preparation of bodies prior to embalming. (1) Prior to embalming, or prior to public viewing or final disposition of the body if embalming is not performed, the funeral director shall do all of the following:

- (a) Remove all clothing from the body and wash the entire body thoroughly with a germicidal soap or detergent; (b) Clean the body orifices and treat with a topical disinfectant; and (c) Perform pars. (a) and (b) in compliance with the terms and conditions set forth in the U.S. Occupational Safety and Health Administration (OSHA) standard for occupational exposure to bloodborne pathogens, 29 CFR 1910.1030
- (2) The funeral director shall return clothing removed from a dead human body to the family or other appropriate individual. Any soiled clothing shall be disinfected and sanitized before it is returned.

DISCIPLINE

JUAN R. BARQUET SUSPENSION **OAK CREEK, WI**

Convicted of third degree sexual assault and of threats to extort money. Effective May 20, 1997.

MARK R. LAEMMRICH REVOCATION **RICHARD G. LAEMMRICH SUSPENSION** **LAEMMRICH FUNERAL HOME:** **MENASHA, WI REVOCATION**

Mark Laemmrich made funeral arrangements, was on the premises of the Laemmrich funeral home, and participated directly and indirectly in the operations of the funeral establishment while his license was suspended by Order of the Board. Effective October 11, 1996. Richard Laemmrich approved and authorized Mark Laemmrich's presence in violation of the same Board Order. Effective April 11, 1997. Laemmrich Funeral Home revocation effective April 11, 1997. Costs assessed.

ROBERT J. BLASCHKE SUSPENSION **LACROSSE, WI.**

Practicing funeral directing without a valid license. Costs assessed. Effective January 23, 1996.

WAYNE L. FAULKS REVOCATION **WEYAUWEGA, WI.**

Convicted of counterfeiting a death certificate. Effective March 19, 1996.

ROBERT E. HANSEN AND REPRIMAND **HANSEN FUNERAL HOME BELOIT, WI.**

Failure to deposit trust funds; failure to provide receipt of deposits; practicing funeral directing below the minimum standards. Costs assessed. Effective October 2, 1997.

DONALD J. BLAZEK SUSPENSION **ASHLAND, WI.**

Convicted of two counts of theft of a business. Costs assessed. Effective May 9, 1995.

ALAN JENSEN AND REPRIMAND **JENSEN-JINSKY FUNERAL HOME** **PLOVER, WI.**

Failure to provide price disclosures; failure to obtain approval for embalming services; taking undue advantage of patrons. Costs assessed. Effective 5/9/95.

GOVERNOR APPOINTS BOARD MEMBERS

Rick D. Unbehaun and Peter J. Schils have been appointed by Governor Tommy Thompson to begin serving upon senate confirmation. More information will be provided in the next digest.

OTHER ACTIONS

From 1987-1989, the listed respondents engaged in certain activities related to the sale of PNS, Inc., a type of pre-need insurance used to fund funeral arrangements. Those activities were found to be in violation of the applicable state statutes and administrative rules. However, the violations were found to be unintentional, and the respondents ceased their involvement in those activities in 1989. Accordingly, no discipline was imposed, although the respondents were ordered to pay the costs associated with these matters. Additionally, the respondents agreed to honor all pre-need insurance plans for their customers that involved PNS, Inc. and have done so to date. The respondents included: James Alstadt and the Alstadt Funeral Home in Greenfield; Norman J. Sass and the Joseph E. Sass Funeral Home of Milwaukee; Thomas P. Rozga and the Rozga Funeral Home in Milwaukee; J. Michael Lippert and Lippert Funeral Home of Sheboygan; and Thomas J. Meredith II and the Maresh-Meredith Funeral Home located in Racine.

COMPLAINT PROCEDURES

Because policing of the profession is complaint driven, the Board must rely on professionals in the field and unsatisfied customers to file complaints. If you have a complaint about a licensed professional or their actions, you can contact the Department for a complaint form or submit your complaint in writing. Please provide as much information as possible.

Credential holders, if a complaint is filed against you, be aware that you have legal rights to due process. You will be contacted by the Department during the investigative stage and given an opportunity to defend yourself. You may be represented by an attorney.

RENEWAL OF EXPIRED CREDENTIALS

The Wisconsin state statutes regarding renewal of a credential that has been lapsed 5 years or more allow the board to impose requirements for renewal that may be equal to the requirements for original credentialing, including education and examination. Funeral Directors in Good Standing are also subject to this rule.

Department of Regulation and Licensing
Funeral Directors Examining Board
P.O. Box 8935
Madison, WI 53708-8935

REGULATORY DIGEST

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NEW TELEPHONE SYSTEM

The Division of Business Licensure & Regulation has installed a new menu telephone system which is designed to more efficiently direct the caller to the appropriate section. It has had some "bugs" and we apologize for that; however, we will keep fine-tuning it so that you will receive good service. The new telephone number for licensing staff is:

(608) 266-5511

After dialing this number you are asked to press 1, 2, 3 or 4. For the following requests, please press numbers as noted:

Application Forms Press 1, then Press 1
Complaint Against Licensees.. Press 1, then Press 2
Verification of Licensure &
Name/Address Changes Press 2, then Press 1
Practice Questions Press 3, then Press 1
Application Processing
& Requirements Press 4, then Press 2

DATES TO REMEMBER

1997 BOARD MEETING DATES

September 30, 1997

November 18, 1997

All meetings are held at 1400 E. Washington Ave.,
Madison, WI and are open to the public.

1997 EXAMINATION DATES

October 23, 1997

WISCONSIN STATUTES AND CODE

Copies of the Wisconsin Statutes and Administrative Code can be ordered through the Board Office. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28.

CHANGE OF NAME: OR ADDRESS?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided, but may be verified by calling the board office one week after mailing the changes.

SECTION 440.11, WIS. STATS. ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.

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